IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Alexander Smith, # 02962-000,)	C/A No. 6:06-1431-CMC-WMC
Petitioner,)	OPINION AND ORDER
)	
v.)	
)	
John J. LaManna, Warden,)	
FCI-Edgefield; and the United States)	
Parole Commission,)	
)	
Respondents.)	
)	

Petitioner, a state inmate proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on May 10, 2006. Respondents filed a motion to dismiss or, in the alternative, motion for summary judgment on July 17, 2006. By order filed July 18, 2006, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to adequately respond to the motion. On November 21, 2006, Petitioner filed a motion for summary judgment, to which Respondents responded on December 11, 2006. By order filed on November 22, 2006, Petitioner was granted through December 20, 2006, to respond to Respondents' motion to dismiss or, in the alternative, for summary judgment. Petitioner failed to file a response. Accordingly, for purposes of this motion, this court will consider Petitioner's motion for summary judgment as his opposition to Respondents' motion.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge William M Catoe.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit

Entry Number 15 Page 2 of 2 6:06-cv-01431-CMC Date Filed 03/22/07

the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for

clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d

310 (4th Cir. 2005) stating that "in the absence of a timely filed objection, a district court need not

conduct de novo review, but instead must 'only satisfy itself that there is no clear error on the face of

the record in order to accept the recommendation." (quoting Fed. R. Civ. P. 72 advisory committee's

note).

Based on his review of the record, the Magistrate Judge has recommended that Respondents'

motion for summary judgment be granted and Petitioner's motion for summary judgment be denied.

The Magistrate Judge advised Petitioner of his right to file objections to the Report and the serious

consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has

expired.

After reviewing the Petition, the motions, the record, the applicable law, and the Report and

Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and

Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that Respondents' motion for summary judgment is **GRANTED** and Petitioner's

motion for summary judgment is **DENIED**.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE

UNITED STATES DISTRICT JUDGE

Columbia, South Carolina March 21, 2007

2